

Charter Review Commission, Meeting Notes,

August 25, 2003

Members in Attendance: Ann Balcerzak, Charles Feaga, Ron Carlson, Ron Cherry, Larry Cohen, Ginny Thomas, Marion Harris, Ken Stevens, Tim Daly, Robin Steele, Tom Meachum.

Staff: Brian Perlberg.

1. Administrative Matters

Our November 24th meeting has been moved. November meetings will now be held Monday, Nov 3 and Tues November 18th. Commission Meetings (not public hearings) will continue to be at 7pm at the Gateway Building.

2. Public Hearings

The public hearings will be held as follows:

- ▶ September 4, 2003, 2 p.m. at the Central Library 10375 Little Patuxent Parkway, Columbia, MD 21044.
- ▶ September 23, 2003, 7 p.m. at the Banneker Room, Howard Building, 3430 Courthouse Drive, Ellicott City 21043
- ▶ October 16, 2003, 7 p.m. at the Lisbon Firehouse.

The following members indicated that they plan to attend the first meeting. Ann Balcerzak, Charles Feaga, Ron Carlson, Larry Cohen, Ken Stevens, Tim Daly, Robin Steele. Probably attending: Tom Meachum, Ron Cherry

Staff from the Budget and Finance office will be at the public hearing and will testify first. Individuals will go according to their order on the sign in sheet. People testifying will be allowed to speak for 5 minutes. If individuals have questions, the Commission will get their names and addresses. The Commission will follow-up with a response.

3. Press

The name of individual Commission members will not be placed on proposals distributed by mail or electronically. The Commission discussed funneling questions concerning the Commission to staff.

4. Chart of Proposals:

The Commission reviewed the master list of charter proposals to date. A question was raised about whether state law covers removal of officers. This would provide a legal obstacle to create a process to removing a Councilmember or County Executive. This issue will be researched and reported upon.

The Commission also made comments regarding proposals concerning Sections 302(d)(e) and 606.

The Chart will be updated on the web on a rolling basis and the chart mailed out will reference the web address. The Commission would also receive an email with the Commission's web site.

5. Executive's Non Financial Proposals.

The Commission discussed all of the non-financial proposals suggested by the Administration. The Commission would like a response from the Executive concerning Section 705, whether the Charter is hampering flexibility. The Commission would also like to solicit an opinion from employees.

A commission member wanted to know if the Council would prefer a "drop dead" deadline regarding presentation of the pay plan.

Also, there was a request as to how the hearing examiner for personnel actions would function and what would be the standards for making appeals beyond the hearing examiner. Also, would the appeal be a true *de novo* appeal? Also, must this position be created by Charter amendment? Sheila Tolliver, Council Administrator, explained that the recent creation of a hearing examiner for land use matters required a Charter amendment because it delegated responsibility given in the Charter.

Brian will send out the code regarding anti-discrimination employment practices proposed for Section 709.

6. Ron Carlson's Suggestions Concerning Articles 6 through 8

The Commission discussed Ron Carlson's proposals regarding Articles 6 and 8. The Commission discussed the merits of eliminating various sections from the Charter.

Ron explained that his proposal for Section 701 provides the framework for eliminating other sections. Ron will suggest a revised proposal for Section 701 that will retain the purpose of language concerning application to all employees.

Ron also asked for a detail of line of succession for the County Executive.

The Commission would like to ask the Executive if the Charter is limiting county governance regarding Section 802.

7. County Council Suggestions

Sheila Tolliver presented the Council's Charter proposals.

8. Assistant Solicitor Suggestion

The Commission discussed the proposal covering section 906 and 907. Ginny Thomas suggested a proposal to eliminate Sections 906 and 907 because State law covers this area. She will email a proposal, so that all Charter proposals will have a "source document."

Adjournment.

The meeting adjourned just after 9 p.m.

Draft Minutes
Charter Review Commission
Public Hearing of September 4, 2003
Howard County Central Library

Members in attendance: Ann Balcerzak, Chair; Ron Carlson, Ron Cherry, Tim Daly, Linda Dombroski, Charlie Feaga, Tom Meachum, Robin Steele, Ken Stevens

Chairwoman Balcerzak opened the hearing at 2:00 p.m. She explained the process the Commission is using and expressed their intent to receive proposals by October 30, 2003. She invited testimony.

Patrick Dornan, President of the Howard County Taxpayers' Association, made the following points in his testimony:

- He believes that there is broad citizen interest in establishing a provision for recall of the County Executive and members of the County Council.
- He opposed the proposed amendment to allow the Council to increase the budget.
- He proposed adding a provision making resolutions of the County Council subject to Executive veto.
- He announced that there will be several tax cap proposals in the near future.
- He opposed any possible limit on the "peoples' voice."
- He vigorously opposes any language changes pertaining to the rainy day fund that would allow the fund to be used for non-emergencies.
- He recommends deleting from Section 211 of the Charter the language that prohibits appropriations and related legislation from being subject to referendum.

Chairwoman Balcerzak thanked Mr. Dornan for his testimony and invited him to submit written testimony, if he wishes to flesh out some of his proposals.

Mr. Cherry asked Mr. Dornan his proposal for a floor for the number and percentage of voters needed to bring an issue to referendum. Mr. Dornan supports the current Charter provisions in this regard.

Mr. Carlson asked Mr. Dornan what criteria are legitimate for recall. Mr. Dornan replied that conviction of a felony would be one. He said he is not prepared to answer more fully, but he is inclined to say that a candidate who runs for election in one way and governs in another should be subject to recall.

Mr. Feaga asked Mr. Wacks to explain how the rainy day fund may be used. A discussion followed in which Mr. Wacks and Mrs. Greisz explained that they intended for the proposed language to clarify that the fund could be used in emergency and to close a gap between revenues and budgeted appropriations in certain situations. They did not intend to broaden or change the use of the fund, and they would not object to restoring the word "substantial" to describe the nature of the shortfall necessary to use rainy day funds.

Ms. Dombrowski noted that some counties have specific authority to reduce budgets within the budget year. Mr. Wacks responded that the Executive has this authority already in Howard County.

The meeting was adjourned at 2:35 p.m.

John Taylor

Mr. Taylor made a number of points, which are included in his written testimony. He made the following points:

- Term limits should not be changed because he believes the voters have already voted on this matter and knew what they were doing.
- He believes that the number of signatures to take an issue to referendum should remain at 5,000 signatures. He stated that requiring 10% of the voters would nearly triple the required number of signatures. He also believes that amendments to the Charter should remain at the current level of 10,000 signatures.
- He believes that resolutions effective greater than one year, especially resolutions for Councilmanic districts, should be subject to referendum.
- He believes Council terms should be shortened to 2 years and that the term limit should last for 6, 2-year terms.
- He is in favor of a recall position.
- He believes that Council positions should be a full time position and that there should be the number of Council members should be expanded, because the population has grown.
- He believes that the standing for a challenge of an open meetings violation should be expanded to include any citizen.
- He believes the number of housing unit allocations may be appropriate for inclusion in the Charter.
- He believes that conflict of interests regarding land use decisions needs to be strengthened.

Ron Carlson asked Mr. Taylor why he felt so strongly about recall and referendum provisions. Mr. Taylor responded that recall is a referendum on elected officials, who have misrepresented their positions in the campaign. He believes referendum allows people to apply a more direct form of democracy.

Tom Meachum discussed some of the differences between voting on a legislative matter and a quasi-judicial arena. Mr. Taylor agreed that there are differences in a quasi-judicial arena, but that holding a public hearing on a proposal is a different matter.

Ann Balcerzak commented on how recall could cause chaos. She asked Mr. Taylor if he believes in representative democracy and he responded that he did. She asked Mr. Taylor if he would still be in favor of a recall provision if Council terms were shortened to 2 years. He responded that recall would hardly ever be used if Council terms were just 2 years.

Ginny Thomas asked if he has done a fiscal impact for expanding the Council and making the position full time. Mr. Taylor has not done a fiscal impact. She also asked approximately how many constituents a state senator or delegate represents, as well as the population of the county at the time the Charter was adopted.

Draft Minutes
Charter Review Commission
Public Hearing of October 16, 2003
Lisbon Firehouse

Members in attendance: Ann Balcerzak, Chair; Linda Dombrowski, Charlie Feaga, Tim Daly, Robin Steele, Ginny Thomas.

Chairwoman Balcerzak opened the hearing at 7:10 p.m. Commission members then introduced themselves to the audience.

Richard Ruehl

Richard Ruehl, President of the Howard County Firefighters' Association made the following points in support of binding arbitration:

- Other surrounding jurisdictions have binding arbitration.
- Regardless of binding or non-binding arbitration, fire fighters will not strike. It is against the law to do so and in the union's bylaws.
- There are three types of binding arbitration
 - Convention, possible compromise on any and all terms
 - Final offer or last best offer – all or nothing on all terms
 - Final offer or last best offer – on an issue-by-issue basis.
- He personally has a slight preference for an issue-by-issue approach as the least offensive method for coming to a resolution.

Linda Dombroski asked if arbitrators come up with decisions that are difficult to carry out.

Mr. Ruehl responded Arbitrators are likely to come up with middle of the road solutions because they want to be selected as arbitrators in the future.

Mr. Ruehl was asked about the effect binding arbitration might have on county government finances.

He responded that non-binding arbitration, which is what the county currently has, costs money to use and the decision can be ignored in the end. Mr. Ruehl believes that binding arbitration results in reasonable decision within counties' means. Post Sept 11th, firefighters jobs have become more dangerous, as they are on the front lines facing issues like bomb threats. Binding arbitration allows public safety employees to get a resolution for issues that are important to them.

Mr. Ruehl stated that he would be happy to conduct further research if the Commission has further questions, and would be available to meet with the Commission again in the future.

Draft Minutes
Charter Review Commission
Public Hearing of September 23, 2003
Howard Building, Banneker Room

Members in attendance: Ann Balcerzak, Chair; Ron Carlson, Charlie Feaga, Tom Meachum, Robin Steele, Ken Stevens, Ira Snell, Ginny Thomas.

Chairwoman Balcerzak opened the hearing at 7:00 p.m. She announced the next and final public hearing would be Oct. 16. and that proposals are due in by October 30th. Commission members then introduced themselves to the audience.

Sharon Wissel

Ms. Wissel testified on behalf of the Howard League of Women Voters and made the following points:

- The league is against term limits in Section 202C of the Charter. The League believes that elections provide the best means for limiting terms.
- The League supports deleting references to the Howard County Metropolitan Commission in sections 606 and 617d, because this reference is no longer relevant.
- The League supports filling Council vacancies by the voters during presidential elections.

Charlie asked Ms. Wissel if the league had a position for applying Council term limits to only consecutive terms. She indicated that the League does not have a position on this matter.

Grace Kubofcik

She was a member of the first Charter Review Commission and attended the Commission's September 4th public hearing.

She made the following points:

- She testified against adding any tax caps or a recall provision.
- She testified against the existing provision for term limits.
- She believes that the Commission should consider expanding the size of the Council due to additional population in the county. Moreover, an at large chair position should be considered.

Ms. Kubofcik was asked if she thought Council term limits should operate as they do for the County Executive, which provides two terms, but allows a former executive to run again so long as the terms are not consecutive. She believes that two terms for a County Executive is enough time to accomplish their goals. However, she believes that the nature of a Council position is different and that they should not have term limits.

John Taylor

Mr. Taylor made a number of points, which are included in his written testimony. He made the following points:

- Term limits should not be changed because he believes the voters have already voted on this matter and knew what they were doing.
- He believes that the number of signatures to take an issue to referendum should remain at 5,000 signatures. He stated that requiring 10% of the voters would nearly triple the required number of signatures. He also believes that amendments to the Charter should remain at the current level of 10,000 signatures.
- He believes that resolutions effective greater than one year, especially resolutions for Councilmanic districts, should be subject to referendum.
- He believes Council terms should be shortened to 2 years and that the term limit should last for 6, 2-year terms.
- He is in favor of a recall position.
- He believes that Council positions should be a full time position and that there should be the number of Council members should be expanded, because the population has grown.
- He believes that the standing for a challenge of an open meetings violation should be expanded to include any citizen.
- He believes the number of housing unit allocations may be appropriate for inclusion in the Charter.
- He believes that conflict of interests regarding land use decisions needs to be strengthened.

Ron Carlson asked Mr. Taylor why he felt so strongly about recall and referendum provisions. Mr. Taylor responded that recall is a referendum on elected officials, who have misrepresented their positions in the campaign. He believes referendum allows people to apply a more direct form of democracy.

Tom Meachum discussed some of the differences between voting on a legislative matter and a quasi-judicial arena. Mr. Taylor agreed that there are differences in a quasi-judicial arena, but that holding a public hearing on a proposal is a different matter.

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Ginny Thomas asked if he has done a fiscal impact for expanding the Council and making the position full time. Mr. Taylor has not done a fiscal impact. She also asked approximately how many constituents a state senator or delegate represents, as well as the population of the county at the time the Charter was adopted.

Ann Wittick of the Columbia Democratic Club testified and made the following points:

She spoke in favor of having elections to fill Council vacancies in the presidential elections. Charlie commented that it was refreshing to hear this comment from Democratic club, which would seemingly have ties to a central committee.

The Chair thanked Sharon Greisz for attending the meeting.

The meeting was adjourned at 8:15 p.m.

Charter Review Commission Meeting Notes

Monday, November 3, 2003, 7 p.m. Gateway Building

Members in attendance: Ann Balcerzak, Robin Steele, Ken Stevens, Larry Cohen, Linda Dombroski, Charlie Feaga, Allen Cornell, Ron Carlson, Virginia M. Thomas, Ira Snell.

Staff: Brian Perlberg, Ruth Fahrmeier

Ann Balcerzak, Chairperson, opened the Committee by welcoming members back to regular meetings after holding three public hearings. The minutes from the public meetings will be voted upon at our next meeting.

The Chair presented a means for discussing proposals in order of section number and take straw votes to gauge the level of interest regarding proposals before the Council. Three votes leaves a recommendation for discussion as a priority recommendation to the Council. If a proposal got less than 3 votes, the matter would be placed on a lower level of priority to discuss. Specific proposals were then discussed.

Section 202, Removing a Council Member, Section 302(H) Removing an Executive

Three people voted to keep this a matter for discussion. The Commission discussed that this could be more of an issue as the county population grows, and if the Council were larger. Some Commission members expressed reservations as to what would be defined as incapacity or inability. Other jurisdictions include a mechanism for removing elected officials, and has been invoked twice recently in PG County.

Section 202(B)3, Section 302, and Section 405(f) "Moral Turpitude"

At least four people expressed an interest in keeping this item on the priority agenda. The Commission discussed the meaning of "moral turpitude" as well as proposed language in the recommendation. "Moral turpitude" has been defined by case law and is a common term used in other Charter and constitutions.

The Commission wondered about instances in which "moral turpitude" had been invoked in the county or other jurisdictions.

Section 202(e) Special Election

There was a definite interest in this proposal. Commission discussed what would be an appropriate cut off date. Ken suggested 10 days before the filing date for the primary, which is language in a state bill concerning filling Board of Election vacancies.

Allan asked Ruth to provide documentation why a special election could not apply to the County Executive.

Section 208(d) Emergency Session

Did not garner needed support.

The second proposal attributed to Ginny on the chart should have been classified as in Section 902 regarding temporary boards.

601(b)(1) Definitions

This proposal was withdrawn

Section 602 Budget Message

This proposal did not garner three votes.

Section 604, Filing Proposed Budget

Withdrawn

Section 606 Annual Budget

This recommendation received more than 3 votes.

This recommendation was considered a substantive in nature

Section 607, 617 and 914M Metro Commission

There was interest in keeping this recommendation.

This was considered administrative in nature.

Section 614 Enterprise Account

Received more than 3 votes and was considered administrative in nature

Section 615 Rainy Day Fund

Received more than 3 votes and was considered substantive in nature.

Also the proposal to eliminate definitions from this section received more than 3 votes.

Section 616. Borrowing Limits

Received more than 3 votes and was considered substantive in nature.

Summary

Including recommendations from the public, the Commission began the meeting with more than 60 proposed recommendations. The Commission began to prioritize recommendations for discussion and eliminate proposals which do not have enough support from active consideration.

The Commission considered 27 proposals at the November 3, 2003 meeting and eliminated 7 matters from active consideration.

The Active Items are as Follows

202, Removing a Council Member, Section 302(H) Removing an Executive
202(B)3, Section 302, and Section 405(f) "Moral Turpitude"
202(e) Special Election

Charter Review Commission Meeting Notes

Tuesday, November 18, 2003, 6 p.m. Howard Building

Members in attendance: Ann Balcerzak, Robin Steele, Ken Stevens, Larry Cohen, Linda Dombroski, Charlie Feaga, Allen Cornell, Ron Carlson, Virginia M. Thomas, Ira Snell, Tim Daly, Ron Carlson, Tom Meachum.

Staff: Brian Perlberg, Ruth Fahrmeier

Ann Balcerzak, Chairperson, opened the meeting and made a motion to adopt the meeting notes from the Sept 4, Sept 23, and October 16 public hearings, as well as the Nov. 3, meeting. All four meeting notes were adopted.

The Committee proceeded to take straw votes regarding remaining proposals that were not voted upon last meeting.

The Commission approved Section 617 for further discussion at the last meeting.

The proposals from the following sections were **approved for further discussion**:

702, 705A, 705B, 705C, 706A, 706E, 707, 708, 709A, 903, 906 (by Asst. Solicitor), 906 (by RC), 907 (by Asst. Solicitor), 907 (by RC). Art. 11. revised proposal for Section 202 term limits (see below).

Sections 905 was withdrawn at the last meeting

Section 914M was approved for further discussion at the last meeting and consolidated at with 606 and 617.

The proposals from the following sections **did not receive three votes for active consideration**:

701, 704, 705, 706, Art. 7, 801, 802, 902, 914(d).

The Commission considered all of the public's suggested proposals and decided to continue discussion regarding term limits. The Commission will consider whether term limits should only apply to consecutive terms, rather than total elimination of term limits. The other proposals from the public did not receive 3 votes for active consideration.

Also, although it did not receive 3 votes, the proposal by the public regarding conflicts of interest serving on the Board should be reflected on the chart of proposals.

Approval of Proposals

A motion to approve all of the County Executive's proposals, except the Rainy Day Fund proposals in sections 615A & B, was approved unanimously (11-0).

--These included proposals from sections 614, 616, 617, 702, 705A, B, C, 706E, 707, 708, 709.

A motion to approve the County Council's suggested proposals were approved unanimously (11-0). This includes proposals from sections 210 and 903.

Public Information Request

A motion regarding the proposal to delete Sections 906 and 907 was defeated (1-11).

The Commission discussed the proposal regarding language in Section 906 and 907. There was a recent Maryland Court of Appeals case involving Mont. Co. on this matter. The Solicitor's Office will propose revised language for this recommendation and Tom will look at the Mont. Co. case. The Chair summed up the issues to be discussed at our next meeting:

- (1) Who can request records "any resident" vs. "any person".
- (2) Should the Charter refer to the state law's optional and/or mandatory exclusions for requesting information, which already apply.

Next Meeting

Our next meeting will start at 6pm and has been moved to the Ellicott Room in the Howard Building.

Adjournment approximately 8:30 p.m.